THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.19672 of 1996

ORDER: 12-9-2005

N.Hari Krishnan …. Petitioner

v.

1. The Director General, Central Industrial

Security Force, New Delhi and three others … Respondents

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.19672 of 1996

ORAL ORDER:

The proceedings of the 4th respondent dated 16-4-1996 whereby the petitioner, on his promotion as Lance Nayak, was posted at BDL Kanchanbagh, is impugned in this writ petition.

The sum and substance of the grievance of the petitioner is that though he was sent to undergo Fireman training Course, from 28-1-1991 to 7-5-1991, by the respondents themselves, and despite his specific request, vide letters dated 11-10-1993 and 12-4-1994, that he be appointed in the Fire Service Wing, the respondents have instead chosen to post him in the Executive Wing at BDL Kanchanbagh.

Sri S.Sharath Kumar, learned counsel for the petitioner, would submit that the very purpose of sending Constables/Head Constables, of the Central Industrial Security Force (CISF), to undergo Fire Service training is only to appoint them in the Fire Service Wing of the CISF, as otherwise the entire training imparted to them would be an exercise in futility. Learned counsel would submit that despite the petitioner having submitted repeated representations, no action has been taken by the respondents in this regard. Learned counsel would also submit that though the respondents had initially insisted that option be exercised before July, 1991, which period was extended by a further period of six months upto the end of 1991, the rigour of the rules has been relaxed in several cases and options exercised, much after the end of 1991, have been entertained and transfers effected to the fire service wing.

Learned Standing Counsel, for the respondents, would refer to the proceedings dated 20-9-1994 whereunder the Assistant Commandant, CISF Unit, BDL, Bhanur, on referring to the reply of the DIG, CISF that the options to switch over to Fire Service Cadre were required to be exercised within a period of six months, which

lapsed in July, 1991 and the subsequent extension of six months had also elapsed by the end of 1991, had returned the application of the petitioner. Learned Standing Counsel would submit that this office Memorandum dated 20-9-1994 is not the subject matter of challenge in this writ petition and it is only the promotion-cum-posting order, which has been challenged. Learned Standing Counsel would submit that under the statutory rules, employees are required to exercise their option to join the Fire Service Wing before the end of 1991 and the petitioner, admittedly, having not chosen to do so, within the stipulated period, cannot contend that the time stipulated be relaxed in his favour and that his case now be considered for appointment in the Fire Service Wing of the Central Industrial Security Force.

It is well settled that no Mandamus can be issued to the respondents to take action in violation of the statutory provisions. Since the cut off date had admittedly expired by the end of 1991, before which date the petitioner had not exercised his option, no relief can be granted in favour of the petitioner. The contention of discrimination does not have any factual foundation. Except to contend that the respondents have relaxed the rigour of the Rules and have entertained options even after the end of 1991, no details have been furnished in the affidavit regarding the persons who have been conferred the benefit of relaxation. This contention of discrimination is also liable to rejected.

Since he has no vested right to claim that he should be appointed in the Fire Service Wing of CISF, and has not chosen to exercise the option within the prescribed time, the petitioner is not entitled to the relief sought for in this writ petition.

The writ petition fails and is accordingly dismissed. No order as to costs.

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12-9-2005

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